

04-130 GMS

ORIGINAL

Page 2

05-631

PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

|  |  |
|--|--|
| United States District Court   | District   |
| Name (under which you were convicted):<br><b>JACK WILLIAM WOLF</b>                       | Docket or Case No.:<br><b>84005481DI</b>   |
| Place of Confinement:<br><b>DELAWARE CORRECTIONAL CENTER</b>                             | Prisoner No.:<br><b>00093532</b>   |
| Petitioner (include the name under which you were convicted)<br><b>JACK WILLIAM WOLF</b> | Respondent (authorized person having custody of petitioner)<br><b>THOMAS WARDEN: CARROLL</b> |
| The Attorney General of the State of <b>DELAWARE : JANE BRADY</b>                        |  |

PETITION

FILED

AUG 29 2005

U.S. DISTRICT COURT  
DISTRICT OF DELAWARE

1. (a) Name and location of court that entered the judgment of conviction you are challenging  
**SUPERIOR COURT; New Castle County Courthouse**  
**500 North King St., Suite 10400, Wilmington, De, 19801-**  
 (b) Criminal docket or case number (if you know): **VN84090789r1** 3733

2. (a) Date of the judgment of conviction (if you know): **5-24-1985**

(b) Date of sentencing: **9-15-1984**

3. Length of sentence: **25 years, 12 yrs. in Prison, 13 yrs Probation**

4. In this case, were you convicted on more than one count or of more than one crime? Yes  No

5. Identify all crimes of which you were convicted and sentenced in this case: **1 Count**

**of 2nd degree Rape or Rape 2nd.**

6. (a) What was your plea? (Check one)

(1) Not guilty

(3) Nolo contendere (no contest)

(2) Guilty

(4) Insanity plea

(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

**Not guilty of Rape 2nd.**

FILED

OCT - 3 2005

U.S. DISTRICT COURT  
DISTRICT OF DELAWARE

(c) If you went to trial, what kind of trial did you have? (Check one)

Jury  Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

Yes  No

8. Did you appeal from the judgment of conviction?

Yes  No

9. If you did appeal, answer the following:

(a) Name of court: SUPREME COURT of DeLAWARE

(b) Docket or case number (if you know): #266,1985

(c) Result: Denied

(d) Date of result (if you know): 6-13-1986

(e) Citation to the case (if you know): \_\_\_\_\_

(f) Grounds raised: INEFFECTIVE ASSISTANCE OF  
COUNSEL.

(g) Did you seek further review by a higher state court? Yes  No

If yes, answer the following:

(1) Name of court: U.S. DISTRICT COURT of Delaware.

(2) Docket or case number (if you know): # Supreme Court

(3) Result: Denied

(4) Date of result (if you know): \_\_\_\_\_

(5) Citation to the case (if you know): \_\_\_\_\_

(6) Grounds raised: DNA TESTING AND A NEW TRIAL  
BLOOD TYPE SEVEN did NOT MATCH  
ME Jack W. Wolf.

(h) Did you file a petition for certiorari in the United States Supreme Court? Yes  No

If yes, answer the following:

(1) Docket or case number (if you know): \_\_\_\_\_

(2) Result: \_\_\_\_\_

(3) Date of result (if you know): \_\_\_\_\_

(4) Citation to the case (if you know): \_\_\_\_\_

10. Other than the direct appeals listed above, have you previously filed any other petitions,

applications, or motions concerning this judgment of conviction in any state court?

Yes  No 

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: Superior Court, Delaware

(2) Docket or case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: Rule 61 - State Unit of Habeas Corpus(5) Grounds raised: Blood Type semen found on a garment  
underwear does not match mine  
also time line does not add up to fact.I was not with this women at the  
time she says that she was raped.She was with the state Police and Doctor  
between the hours of 5:30 to 6:30 in the  
evening of 9-13-1984. She says she was being raped  
from 5:30 to 6:30 in the evening of 9-13-1984  
Her Rape Story was a lie(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes  No 

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: Superior Court, Wilmington, Delaware

(2) Docket or case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: Correction of Sentence + 2nd Rule 61(5) Grounds raised: I have not been given credit  
for good time on the 12th years that I  
have served in Prison. I have earned  
over 3 years good time that has not  
been given to me off this sentence.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes  No

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: 3rd Circuit Court, Phila. P.A.

(2) Docket or case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: DNA Testing and a New Trial.  
also time line does not add up to fact.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes  No

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: Yes  No

(2) Second petition: Yes  No

(3) Third petition: Yes  No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

I was time barred on some of my Motions  
& appeals.

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: I have not been given Credit for good time on 12 1/2 years that I have served in prison.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim):  
My sentence started 9-15-84, 12 years in Prison  
03 years Probation. I served over 5 years in  
Gander Hill, 6 1/2 years in D.C. and 1 year in George-  
Town Prison a total of 12 1/2 years. I also served  
8 years on Parole and Probation. For the 12 1/2 years  
that I served in Prison I should have received 1392  
days good time off of this sentence.

(b) If you did not exhaust your state remedies on Ground One, explain why:  
yes, I have  
filed several times for a Correction of sentence.  
The Courts look at it as a sentence Modification  
and denied me, saying that a writ of habeas corpus

(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes  No

(2) If you did not raise this issue in your direct appeal, explain why:

The issue  
I'm raising is good time owed to me. 1392  
days off of this sentence.

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes  No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Rule 61 and State Habeas Corpus, and  
Name and location of the court where the motion or petition was filed: Superior Court  
and Supreme.

Docket or case number (if you know): June, 28, 2005Date of the court's decision: June, 28, 2005Result (attach a copy of the court's opinion or order, if available): Supreme Court

(3) Did you receive a hearing on your motion or petition?

Yes  No 

(4) Did you appeal from the denial of your motion or petition?

Yes  No 

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes  No 

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Supreme Court  
P.O. Box 476 Dover, De. 19903Docket or case number (if you know): Supreme CourtDate of the court's decision: Supreme CourtResult (attach a copy of the court's opinion or order, if available): The Courts Keep saying time-Barred.

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: I have wrote 5 or more letter to the DCC Records Dept. on this matter.GROUND TWO: I have filed 2 or 3 Correction of Sentence to Superior and Supreme Courts of Delaware.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

I'm sending you a Docket sheet to support my claim. The Prison and the Courts will not send me a time line showing or stating the amount of time that I have served in Prison and on Probation and Parole. Every time I request this information, ~~all~~ they do is send me a copy of my Docket sheet. It does not show the amount of time that I have served in Prison.

on this 25 year sentence, I have served 21 years on this 25 year sentence. I have not been given credit for good time on 12 1/2 years in

(b) If you did not exhaust your state remedies on Ground Two, explain why:

Prison

(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes  No

(2) If you did not raise this issue in your direct appeal, explain why:

Time passed. This issue did not exist at the time of direct appeal. This issue has developed

(d) Post-Conviction Proceedings: 21 years after direct appeal.

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes  No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Rule 61 and State Habeas Corpus

Name and location of the court where the motion or petition was filed: Superior Court and Supreme Court of Delaware.

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

Yes  No

(4) Did you appeal from the denial of your motion or petition?

Yes  No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes  No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: same Courts

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: *I have wrote the Records department 5 or more time's asking them to correct my sentence, and to credit me the good time owed to me.*GROUND THREE: *I have filed at least 3 motions for Correction of sentence in Superior Court Del.*

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.)

*I served at least 5 years in Cedar Hill Prison 6 1/2 years in P.C.C. in Smyrna Del. and 1 year in Prison in Georgetown Prison. These 13 1/2 accumulated good time have not been taken off my 25 year sentence. 13 92 should be taken off my sentence.*(b) If you did not exhaust your state remedies on Ground Three, explain why: *every time I file a motion for correction of sentence, the Courts say that I am time-barred. The Courts do not even investigate my claims.*

(c) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes  No (2) If you did not raise this issue in your direct appeal, explain why: *This motion keeps asking the same questions over and over again. My answers are the same.*

## (d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes  No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed: *I have already answered this question..*

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

Yes  No

(4) Did you appeal from the denial of your motion or petition?

Yes  No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes  No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: *This question has*

*been answered*

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: \_\_\_\_\_

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: \_\_\_\_\_

*This question has been answered.*

## GROUND FOUR:

*Take the 1392 days off my sentence  
that is owed to me and release me from this*

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

*Prison, I've served 12 1/2 years and I've  
earned 1392 days good time.*

(b) If you did not exhaust your state remedies on Ground Four, explain why:

*I have already answered the rest of these  
questions.*

(c) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes  No

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes  No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

Yes  No

(4) Did you appeal from the denial of your motion or petition?

Yes  No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes  No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: \_\_\_\_\_

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes  No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes  No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes  No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Joseph E. Funk

(b) At arraignment and plea: Joseph E. Funk

(c) At trial: Joseph E. Funk

(d) At sentencing: Charles Brandt

(e) On appeal: Charles Brandt

(f) In any post-conviction proceeding: Pro-se

(g) On appeal from any ruling against you in a post-conviction proceeding: Pro-se

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes  No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: \_\_\_\_\_

(b) Give the date the other sentence was imposed: \_\_\_\_\_

(c) Give the length of the other sentence: \_\_\_\_\_

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes  No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.\* *This motion that I am filing is on the good time that I have earned in the past 21 years. I have not been given credit for the 1392 days good time that I have earned by serving 12 1/2 years in prison.*

\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

(1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of —

(continued...)

Page 15

Therefore, petitioner asks that the Court grant the following relief:

to be given Credit  
for the 1392 days good time that I have earned  
for serving 10 1/2 years in Prison, under the old law.

or any other relief to which petitioner may be entitled.

Pro Se Jack W. Wolf

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct  
and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on  
8-24-05 (month, date, year).

Executed (signed) on 8-24-05 (date).

Jack William Wolf

Signature of Petitioner

---

\*(...continued)

- (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
- (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
- (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IN FORMA PAUPERIS DECLARATION  
*United States District Court for Delaware*  
[Insert appropriate court]

\* \* \* \* \*

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE )  
 )  
 v. ) ID: 84005481DI  
 )  
 Jack W. Wolf )

ORDER

This 28 day of June, 2005, upon consideration of defendant's motion for reduction/modification of sentence, the presentence report/prior record, and the sentence imposed upon the defendant;

NOW, THEREFORE, IT IS ORDERED that defendant's motion for reduction/modification of sentence is DENIED for the following reason(s):

- The sentence in this case was imposed pursuant to a Plea Agreement between the State and the defendant and signed by the defendant. Superior Court Criminal Rule 11(e)(1)(c).
- The motion was filed more than 90 days after imposition of the sentence and is, therefore, time-barred. The Court does not find the existence of any extraordinary circumstances.
- Pursuant to Superior Court Criminal Rule 35(b), the court will not consider repetitive requests for reduction or modification of sentence.
- The sentence imposed is mandatory and cannot be reduced or suspended.
- The sentence was imposed after a violation-of-probation hearing was held, and the Court determined the defendant had violated the terms of his probation. The defendant is not amenable to probation at this time.
- The sentence is appropriate for all the reasons stated at the time of sentencing. No additional information has been provided to the Court which would warrant a reduction or modification of this sentence.
- Other: Defendant's motion for appointment of Counsel is also denied

Judge Calvin L. Scott, Jr.

oc: Prothonotary  
pc: Defendant  
Department of Justice  
Presentence

IM Mark A. Wolf  
SBI# 00093532 UNIT B-C-1-5

DELAWARE CORRECTIONAL CENTER

1181 PADDOCK ROAD

SMYRNA, DELAWARE 19977



Office of the Clerk  
United States District Court  
844 N. King Street, Postbox 18  
Wilmington, Delaware

19801-3570

U.S. MAIL  
X-RAY